



DEPARTMENT OF THE ARMY  
UNITED STATES ARMY PHYSICAL DISABILITY AGENCY  
BUILDING 7 WRAMC  
WASHINGTON DC 20307-5001

AHRC-DZB

FEB 28 2005

MEMORANDUM FOR PHYSICAL EVALUATION BOARD PRESIDENTS

SUBJECT: Policy/Guidance Memorandum #1: Compensating Unfitting Disabilities Incurred during Previous Periods of Extended AD.

1. Supersession: This memorandum supersedes USAPDA memorandum, 8 April 2002, subject above. Changes include additional clarification at paras 4 and 5(2), editorial revisions, and updated signature block.

2. Purpose: To clarify the requirements of DoDI 1332.38, Part IV, for compensating unfitting disabilities which originated during previous periods of extended active duty.

3. References:

- a. DoDI 1332.38, para E3.P4.5.2 (page 39).
- b. DoDI 1332.38, para E3.P1.3.4.1.3.1 (page 21) and DoDI 1332.39, para 6.11.2 (page 7).
- c. DoDI 1332.38, para E3.P4.5.3 (page 40).

4. Definition: For purposes of this memorandum, "extended active duty" means the member is ordered to active duty (AD) under an order that designates a single period of more than 30 days. Extended active duty does not include active duty performed under back-to-back orders for periods of 30 days or less that, together, total to a continuous period of more than 30 days.

5. Policy:

- a. RA and RC Soldiers currently on extended AD:

(1) Except as provided in paragraph "(3)" below, an unfitting disability which originated during a previous active duty enlistment is compensable if the original injury or disease was in-the line-of-duty, and the Soldier is currently on extended AD. Such disabilities fall under the guidance referenced at paragraph 3a, above.

(2) Because the law (10 USC 1201 thru 10 USC 1203) is in terms of the member being unfit for a condition incurred while entitled to basic pay, there is no requirement to establish that the Soldier was unfit at the time of release or separation from the previous period of active duty or to establish that re-injury or re-aggravation of the original medical impairment occurred during the current period of active duty.

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(3) Notwithstanding (2) above, if the preponderance of the evidence establishes that the current state of unfitness is due to intervening injury or progression incurred during a break in service, the disability is not compensable. In the latter case and per the guidance referenced at para 3b above, the DA Form 199 must document the preponderant evidence, to include the accepted medical principle.

b. RC Soldiers not on extended AD:

(1) When the Soldier is referred to the Physical Evaluation Board from a Troop Program Unit or Individual Ready Reserve status, an impairment incurred during a previous period of extended active duty is compensable when --

(a) The Soldier establishes by a preponderance of evidence that he or she was unfit when released or separated from active duty (see guidance referenced at para 3c, above); or

(b) The current state of unfitness is the result of re-injury or re-aggravation incurred while performing subsequent active duty or inactive duty training. Such re-injury or re-aggravation must be documented as in-the-line-of-duty.

(2) Per the guidance referenced at para 3b, above, the rationale on the DA Form 199 must justify a finding that the member's unfitting condition is noncompensable. In such cases, it is best to avoid the term "EPTS." Below is a sample rationale.

"The evidence establishes that your disability was not unfitting at the time of your release from active duty, and there is no documentation of permanent aggravation resulting from subsequent military duty. Your current state of unfitness is the result of [insert the applicable circumstance listed below]...

(a) ...injury during your break in service."

(b) ...natural progression during your break in service."


(c) ...re-injury incurred between periods of active duty or inactive training."

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6. Point of contact: Ms. Frances Dennis, Policy Officer, DSN 662-3064, and commercial (202) 782-3064.

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